

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA**

UNITED STATES OF AMERICA	)	
	)	Case No. 1:11-cr-109
v.	)	
	)	Judge McDonough/Steger
LEON MCKINNEY	)	
	)	

**MEMORANDUM AND ORDER**

LEON MCKINNEY (“Defendant”) came before the Court for an initial appearance on April 10, 2017, in accordance with Rule 32.1 of the Federal Rules of Criminal Procedure on the Petition for Warrant for Offender under Supervision (“Petition”).

After being sworn in due form of law, Defendant was informed of his privilege against self-incrimination under the 5th Amendment and his right to counsel under the 6th Amendment to the United States Constitution.

The Court determined Defendant wished to be represented by an attorney and that he qualified for the appointment of an attorney to represent him at government expense. Consequently, the Court APPOINTED Gianna Maio of Federal Defender Services of Eastern Tennessee, Inc. to represent Defendant.

Defendant was furnished with a copy of the Petition, and had an opportunity to review that document with his attorney. The Court determined that Defendant was able to read and understand the Petition with the assistance of his counsel. In addition, AUSA Perry Piper explained to Defendant the specific charges contained in the Petition. Defendant acknowledged he understood the charges in the Petition.

The Government moved Defendant be detained pending disposition of the Petition or further Order of this Court. The Court explained Defendant’s right to a preliminary hearing and detention hearing and what those hearings entail. Defendant conferred with his counsel and requested a preliminary hearing and detention hearing.

The Court conducted a preliminary hearing and a detention hearing on April 14, 2017. Defendant was represented by Gianna Maio at the detention hearing, while the government was represented by Kyle Wilson. The government relied upon the testimony of United States Probation Officer Reshard Montgomery as well as the sworn Petition executed by Officer Montgomery which includes a recitation of the various violations of conditions of supervision committed by Defendant (*i.e.*, possession and unlawful use of a controlled substance; excessive use of alcohol and purchasing, possessing, and using controlled substances not prescribed by a

physician; travel outside the judicial district without the permission of the Court or probation officer; association with persons engaged in criminal activity or convicted of a felony without permission from the probation officer).

Defendant's counsel, Gianna Maio, proffered evidence on behalf of Defendant. Counsel for both sides were given an opportunity to argue for and against detention.

The undersigned finds that Defendant tested positive for marijuana use, and admitted to marijuana use in October 2016. Further, Defendant posted on Instagram a video of himself in Atlanta, Georgia, in March 2017, demonstrating how to mix Promethazine (a prescription medication which has not been prescribed to him) and a carbonated fruit flavored soda to create a drink referred to as "Lean." The video depicted Defendant in the company of Andre Rhodes, a convicted felon.

The Court finds that the evidence establishes probable cause to believe that Defendant has committed violations of his conditions of supervised release, and that Defendant has not carried the burden of establishing by clear and convincing evidence that he will not flee or pose a danger to any other person or to the community. Consequently, the Court **GRANTED** the Government's oral motion to detain Defendant pending disposition of the Petition or further order of this Court.

It is, therefore, **ORDERED** that:

1. Counsel for Defendant and the Government shall confer and make best efforts to submit to United States District Judge McDonough a proposed Agreed Order with respect to an appropriate disposition of the Petition for Warrant for Offender Under Supervision.
2. In the event counsel are unable to reach agreement with respect to an appropriate disposition of the Petition for Warrant for Offender under Supervision, they shall request a hearing before United States District Judge McDonough.
3. The government's motion that Defendant be **DETAINED WITHOUT BAIL** pending further Order of this Court is **GRANTED**.

**ENTER.**

s/Christopher H. Steger  
United States Magistrate Judge